

## **CHAPTER TWO**

### **REQUIRED MANAGEMENT—THE INSTITUTIONAL FRAMEWORK**

Many management requirements are placed on NPS in its administration of Big South Fork NRRRA. These requirements come from two sources: the National Area's establishing legislation and the laws and policies that relate to all NPS-administered areas. It is important to understand what these requirements are because they affect the range of possibilities that may be considered in planning for the National Area.

#### **National Area Legislation**

The purpose of the National Area is stated clearly in its establishing legislation and includes all of the following. (The full text of the legislation is included in the appendix.)

- To preserve and interpret its cultural, historic, archeologic, geologic, fish and wildlife, scenic, and recreational values,
- To preserve the free-flowing Big South Fork and portions of its tributaries,
- To preserve the natural integrity of the gorge,
- To provide healthful outdoor recreation for the enjoyment of the public and for the benefit of the regional economy.

This legislation also includes specific reference to the NPS Organic Act, as amended, which states the purposes of all NPS-administered units. This act and related laws are discussed under "Other Laws" below.

The area's significance, which led to its establishment, is reflected in the following statements.

- Dramatic sandstone gorges, imposing bluff lines, some of the nation's largest water-crafted arches, and other notable geologic formations are found throughout the National Area.
- The Big South Fork is a free-flowing river system, flowing unhindered by water development projects except as it enters Lake Cumberland.
- The National Area contains a wide variety of habitats with associated flora and fauna of the Cumberland Plateau in a limited geographic area.
- Large numbers and varieties of archeological, historic, and ethnographic resources, illustrating a long continuum of use, are found in the National Area, including farmsteads eligible for the National Register of Historic Places.
- National Area waters provide habitat for a world-class freshwater mussel assemblage and are an important refuge for many endangered mussel species. Few other river systems support this level of mussel diversity.
- The National Area provides a broad range of natural and cultural resource-based outdoor recreation and education opportunities.

The purpose and significance have been translated into the following National Area mission statement:

The Big South Fork NRRRA provides healthful outdoor recreation while preserving the free-flowing condition of the Big South Fork and its tributaries, the scenic, natural, and cultural values of the area, and the essentially primitive condition of the gorge.

The National Area is a National River and Recreation Area. The National River designation denotes that it is centered on a free-flowing river. While it is not designated a National Wild and Scenic River, Congress included in the legislation some of the same protection from federal or federally assisted water development projects. Higher water quality and historical in-stream flows were clearly important values to be achieved and protected.

The National Recreation Area designation indicates the area is to be responsive to outdoor recreation needs, consistent with the protection of resource values. The dual designation of National River and Recreation Area and Congress' special direction regarding the gorge would indicate the concern over resource protection while still providing importantly for recreation.

### **Special Mandates and Commitments**

The National Area legislation included very specific directions that describe what can and cannot be done. The following list summarizes the actual wording. The full text may be reviewed in the appendix.

- Hunting, fishing, and trapping are allowed in accordance with federal and state laws. Zones and periods may be established for public safety and use, fish and wildlife management, and administration.
- The National Area is divided into "gorge" and "adjacent area" (the plateau).

In the "gorge"...

- there is no mineral, petroleum, or gas development
- there is no timber cutting except what may be required for limited visitor facilities
- day-use facilities and some primitive campgrounds may be constructed only within 500 feet of designated access roads
- only primitive campgrounds may be constructed elsewhere in the gorge that are accessible only by water or by foot
- improvements may be made only to certain historic structures
- there is no motorized transportation except on designated access roads and certain other routes for administrative use and limited cemetery access
- motorboats are allowed to just below Devils' Jump rapids
- the K&T railroad may continue for visitor use
- any construction or maintenance shall be accomplished in a manner that protects the declared values of the area

In the "adjacent area"...

- there is no surface or strip mining
- mineral prospecting and extraction is permitted according to applicable regulations when the entrance is outside the National Area boundary

- petroleum and gas prospecting and extraction is permitted according to applicable regulations
  - timber cutting is allowed only for public and administrative facilities
  - two lodges may be constructed
  - all road and facility construction must maintain the scenic and esthetic values of both the gorge and adjacent areas
- The historical integrity of Rugby shall be preserved and enhanced by sensitive development and management of nearby National Area lands.
  - The Blue Heron Mine community shall be restored, preserved, and enhanced for public understanding and enjoyment of its historic value.
  - The abandoned O&W railbed shall be studied for possible transportation use.
  - Any improvements to Charit Creek lodge or to other historic structures shall be consistent with the historic scene and the National Area's limited ability to support additional use. Charit Creek lodge improvements will be only within a prescribed area and predetermined capacity limits.
  - Transportation facilities will be established to enhance public access.
  - Water quality will be protected and enhanced in cooperation with others, with special emphasis on the New River watershed.

Along with these directions, specific instructions to consult with various entities were given. These included the State Historic Preservation Officers for cultural resources, the Rugby Restoration Association concerning nearby development, the states, their political subdivisions, and other federal agencies for water resource issues, and the states for wildlife and fishery resources.

As may be seen, Congress provided many detailed instructions for Big South Fork managers. Clearly, there is a resource preservation directive focused on, but not limited to, the gorge. The resource significance of the gorge is referenced more than once and is referred to in one instance as a "unique natural scenic resource." However, facility construction anywhere in the National Area must be undertaken with "careful regard for the maintenance of the scenic and esthetic values of the gorge area and the adjacent areas." The gorge and the adjacent area cannot be managed entirely separate from one another since almost all of the adjacent area drains into the gorge and is otherwise geographically and ecologically related to the gorge.

Public use and enjoyment are also important and clearly indicated in several places. One instance refers to "developing the natural recreational potential of the area."

The NPS has commitments or understandings with certain entities concerning uses within the National Area, including state and county roads, TVA transmission lines, the US Army Corps of Engineers concerning Lake Cumberland, the US Forest Service and Tennessee concerning trail connections and other land management issues. Also important are concession contracts and incidental business permits mostly providing river use and equestrian services.

## **Other Laws**

Other laws apply to all areas administered by NPS. Congress referenced several of these in the National Area legislation. Generally, laws applicable to all areas direct NPS to manage its areas so that their resources and values would be preserved for the enjoyment of present and future generations. These laws include the following:

### **National Park Service Organic Act of 1916, as amended:**

Through this act, Congress established the National Park Service and directed it to...

*promote and regulate the use of the federal areas known as national parks, monuments, and reservations...by such means and measures as to conform to the fundamental purpose of said parks, monuments, and reservations, which purpose is to conserve the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations.*

### **General Authorities Act of 1970**

The Organic Act was amended by the General Authorities Act of 1970. The purpose of this act was to include all areas administered by the NPS in one national park system and to clarify applicable authorities. It recognized the diversity of NPS-administered areas, which now included seashores, lakeshores, parkways, battlefields, recreation areas, and historic sites and affirmed...

*that these areas, though distinct in character, are united through their inter-related purposes and resources into one national park system as cumulative expressions of a single national heritage; that, individually and collectively, these areas derive increased national dignity and recognition of their superb environmental national quality through their inclusion jointly with each other in one national park system preserved and managed for the benefit and inspiration of all the people of the United States.*

This 1970 act made it clear that the Organic Act applied to all NPS-administered units where not in conflict with a unit's establishing legislation.

### **Redwoods National Park Act, as amended**

In the Redwoods National Park Act, as amended in 1978, Congress reaffirmed and directed that the promotion and regulation of the various units of the national park system shall be consistent with the purpose established by the Organic Act and further directed that within all NPS-administered areas the...

*authorization of activities shall be construed and the protection, management, and administration (of these areas) shall be conducted in light of the high public value and integrity of the National Park System and shall not be exercised in derogation of the values and purposes for which these various areas have been established....*

This legislation mandated that NPS provide the highest standard of protection to the resources it manages and may not permit activities harmful to those resources unless specifically provided for by Congress.

The above laws apply to the use and management of all types of resources and resource values and to all types of public use. The only exceptions are where Congress has specifically directed otherwise. Therefore, these laws apply to all of the resources and values mentioned by Congress in the Big South Fork legislation, i.e., geologic, biological, fish and wildlife, cultural, archeological, historical, scenic, and recreational. While Congress specifically provided for mineral development, hunting, and trapping, these activities are to be managed with careful regard for the values of the National Area.

### **National Environmental Policy Act**

While this law did not amend any of the previously mentioned laws, it is the national charter for environmental protection. Among its provisions, this act declares that it is the policy of the federal government to “preserve important historic, cultural, and natural aspects of our national heritage.” Federal agencies are required to plan and carry out their activities in a manner that protects and enhances the quality of the environment. Analysis of the impacts of any plan or project is required. Since many issues involving environmental quality will be resolved through implementation-level planning, the planning and consultation processes begun during general management planning will continue as part of implementation planning.

There are still other laws, executive orders, and regulations that apply to all NPS-administered areas and are focused on certain resources. The primary ones are briefly discussed below.

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### **Federal Water Pollution Control Act (Clean Water Act), as amended**

Federal agencies are partners with the states in restoring and maintaining the chemical, physical, and biological integrity of the nation’s waters. Both Kentucky and Tennessee have laws and stream use classifications that address water quality protection. Water resources are a priority management issue, and NPS has recently prepared a Water Resource Management Plan for the National Area.

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### **Endangered Species Act, as amended**

This act requires federal agencies and those using federal funds to ensure that their projects and activities do not adversely affect plant or animal species that are formally listed as threatened with extinction or endangered. This includes consideration of the habitats of such species. Coordination is required with the US Fish and Wildlife Service. The National Area contains numerous threatened or endangered species. More information on these and other resources referenced in this section is located in the chapter, Affected Environment.

### **Wetlands Protection (Executive Order 11990) and Floodplain Management (Executive Order 11988)**

These orders require all federal agencies to enhance floodplain and wetland values, to avoid development in wetlands and floodplains when practical alternatives exist, and to avoid creating adverse impacts if a floodplain or wetland must be occupied or modified. Uses within the gorge involve floodplains and can involve wetlands. With the restrictions on use and development in the gorge, much of the concern that would otherwise be the case is minimized; however, compatibility with these orders must always be considered.

### **Archeological Resources Protection Act; National Historic Preservation Act, as amended; The Historic Sites, Buildings, and Antiquities Act; Protection and Enhancement of the Cultural Environment (Executive Order 11593)**

These acts and directives mandate the preservation and protection of cultural resources. Federal agencies must evaluate the significance of potentially affected resources and the effects of their actions on these resources, consulting with the State Historic Preservation Officers pursuant to a programmatic agreement. The National Area contains thousands of archeological sites and numerous historic community sites, mine sites, home and farmstead sites and structures, transportation structures, and ethnographic resources significant to people living in the surrounding community. Many of these are very important for visitor understanding and appreciation of the cultural continuum that occurred in the area.

### **Clean Air Act**

The main purpose of this act is to protect and enhance the nation's air quality to promote the public health and welfare. The act also seeks to preserve, protect and enhance the air quality in areas of special national or regional natural, recreational, scenic or historic value. The National Area is designated a Class II area, which is an area where the air quality is better than the applicable national standards and is allowed a moderate increase in certain air pollutants but only as defined to prevent significant deterioration. Specific projects may need to be coordinated with the state air quality agency to determine if a state permit is required and if they are consistent with the state air quality plan.

### **Federal regulation 36 CFR 9B-- Non-federal oil and gas development**

This federal regulation controls all non-federal oil and gas development activities within any unit of the National Park System where access is on, across, or through federally owned lands and waters. All operations plans are reviewed and approved by NPS. Large areas of the National Area (in the adjacent area, as provided for by Congress) are affected by non-federal oil and gas activities and these activities restrict availability of these areas, in part, for visitor use. There is also potential for resource impact.

### **Executive Orders 11989 and 11644—Use of Off-Road Vehicles on Public Lands**

These orders direct federal agencies to regulate off-road vehicle use (same as "off-highway vehicle, which include all-terrain vehicles, or ATVs, 4-wheel drive vehicles, and motorized dirt bikes) to minimize damage to soil, watershed, vegetation, wildlife, and

other resources, and to minimize conflicts with other recreational uses, taking into account noise and other factors. All use of ORVs, or OHVs, is only to occur on trails or areas specifically designated for such use by special regulation, which becomes part of the Code of Federal Regulations. OHV use is popular in the National Area and, since they are motor vehicles, is limited by legislation to the adjacent area, or plateau.

### **Americans with Disabilities Act**

Under this act, along with the mandates of the Architectural Barriers Act and the Rehabilitation Act, federal facilities, services, and programs would be as accessible as feasible to disabled visitors. NPS policies indicate the degree of accessibility in any area would be proportionate to the extent it has been developed and its visitation levels, allowing for resources to be protected and a high quality visitor experience to be maintained. Specific implementation is addressed in detailed project and program planning.

### **State Laws**

There are several legislatively based programs that apply to resources in the National Area. The portion of the Big South Fork of the Cumberland River from the state line to the Blue Heron mine has been designated a Wild River under Kentucky's Wild Rivers program, which protects rivers for recreation, esthetics, and scientific pursuits. Under Tennessee's Natural Areas program, which preserves areas possessing ecological, scenic, recreational, scientific, and educational values, the Twin Arches and Honey Creek areas have been designated as components, preceding the establishment of the National Area. Also, the two states have natural heritage programs, which are concerned with the identification and preservation of biodiversity, including species declining on statewide bases. Water quality classifications by the states apply to waters within the National Area.

### **National Park Service Policy**

NPS policy provides a framework and direction for management decisions. Agency policy has its basis in law and provides specific guidance for agency activities and programs. Adherence to policy is required unless specifically waived at the national level. The following statements are rooted in policy and are worded to indicate application to the National Area in terms of desired conditions.

### **Water Environments, Quality, and Quantity**

- The flows of the Big South Fork and its tributaries within the National Area exhibit the characteristics of natural free-flowing streams and historical flow distributions.
- Natural aquatic, wetland, and riparian environments exist in which natural physical, chemical, and biological processes function healthfully.
- Aquatic systems support sensitive native indicator species.
- Natural hydrological processes continue to shape the landscape of the National Area, periodically flooding the bottomlands in a dynamic process of erosion and deposition.
- Surface waters provide high quality fishing and swimming and are consistent with the Clean Water Act and other applicable laws and regulations.

## **Air Quality**

- The air quality within the National Area supports objectives for healthful visitor use, enjoyment of scenic vistas, and the preservation of natural and cultural resources and is, in general, in compliance with the requirements of the Clean Air Act and state air quality plans.

## **Geology and Soils**

- Natural processes continue to shape the National Area's uplands and gorge.
- Erosional features of the National Area, such as the canyons and arches, exist in a natural condition and setting.
- Natural soil resources and soil formation processes are preserved and protected and unnatural erosion is minimized.
- Mineral development conforms to applicable laws, regulations, policy, and National Area legislation.

## **Plants**

- Natural processes are occurring that perpetuate native plant life as part of the natural ecosystem of the National Area.
- Succession of the native plant communities of the National Area is occurring through natural species interaction and the removal of exotic species.
- Groves of old growth trees are identified and protected.

## **Animals**

- Native animal life is self-perpetuating and the natural ecosystem is being protected.
- Non-native animals are managed to minimize impacts on the natural ecosystem.
- Hunting, fishing, and trapping are allowed for recreation and occur consistent with federal and state laws and regulations.
- Cooperative arrangements are in place concerning management of species of concern.

## **Endangered and Threatened Species**

- All federally listed threatened and endangered species within National Area boundaries along with their critical habitats are identified and protected. Visitor access to critical habitats is controlled where necessary. NPS is cooperating in the protection and enhancement of species of concern listed by the states.

## **Cultural Resources**

- Pending planning decisions, cultural resources are protected and preserved in their existing condition.
- Archeological sites are being protected and further deterioration is being slowed to the extent possible.



- Routine park operations are not intruding on sites or structures unnecessarily by introducing incompatible visible, audible, or atmospheric elements. New facilities do not adversely impact and are compatible with the resource.
- Condition and use are being monitored and use is being regulated.
- Resources are being used as they were historically or in new or adaptive ways that maximize the retention of historic materials, features, spaces, and spatial relationships.
- Cemeteries and other burial areas have been documented and are being managed according to specific plans.
- The National Area's museum collection is protected and is being used to aid visitor understanding and the advancement of human knowledge.
- Cultural landscapes meeting National Register of Historic Places criteria are identified and preserved.

## **Use and Development**

- Visitors are pursuing inspirational, educational, and recreational activities related to the special environments found in the National Area and use is safe, lawful, and consistent with the National Area's purposes and values.
- Use of the National Area is enjoyable, is consistent with the protection of resources, and is compatible with other visitor uses.
- Interpretive programs instill understanding and appreciation for the National Area and its resources and provide information necessary for visitors to safely and appropriately use the National Area.
- NPS provides facilities that are required for visitor enjoyment and that are harmonious with and avoid significant impacts on National Area resources.
- Facility development sites are limited to the smallest feasible area, are consistent with environmental limitations and conservation practices, and include appropriate mitigation measures.
- National Area facilities are esthetically pleasing, functional and safe, and as accessible as possible to all segments of the population.

Having discussed the background and framework for general management planning in the National Area, the discussion of alternatives follows.